

Judge Andrea G. Carter, J.S.C.

Returnable June 22, 2018

Docket	Case Name	Motion Type	U/O/R	Disposition
DJ-141449-15 DC-3599-15	Discover Bank v. Argueta	Turnover Funds	Unopposed	Granted
DJ-129344-17	Discovery Bank v. Lella	Vacate Judgment	Unopposed	Denied

PRESSLER, FELT & WARSHAW, LLP

Attorneys At Law

7 Entin Rd.

Parsippany, NJ 07054-5020

1-973-753-5100

GRANTED

Attorney for Plaintiff

DISCOVER BANK

Plaintiff

vs.

ANA C ARGUETA DUARTE A/K/A ANA C ARGUETA

Defendants

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: MIDDLESEX

County

DOCKET NO. DJ-141449-15 (DC-003599-15)

377

Civil Action

ORDER TURNOVER

THIS MATTER having been opened to the Court by Pressler, Felt & Warshaw, LLP , Attorneys for Plaintiff and no objection having been made, and it appearing that levy was made under a Writ of Execution issued in this cause upon the monies and credits due to defendant(s) ANA C ARGUETA DUARTE A/K/A ANA C ARGUETA from BANK OF AMERICA in the sum of \$95.62 , and it appearing from the moving papers that said amount does not exceed the remaining balance on the judgment due from said defendant(s) in the above entitled cause, including costs, interest and Sheriff's fees.

IT IS on the 22nd day of June 2018

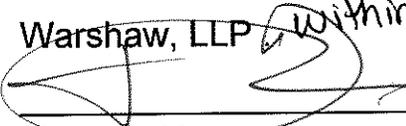
ORDERED THAT BANK OF AMERICA 609 LIVINGSTON AVE NEW BRUNSWICK NJ 08901 turnover to Pressler, Felt & Warshaw, LLP, Attorneys for Plaintiff , the sum of \$95.62 to be credited to the judgment and costs, which is the

amount of garnishee's indebtedness to the defendant(s) previously levied upon,
as appears from the Sheriff's return annexed hereto.

A copy of this Order shall be served upon the garnishee by Pressler, Felt &

Warshaw, LLP

within seven (7) days of the date hereof.



J.S.C. HON. ANDREA G. CARTER, J.S.C.

Opposed

Unopposed

Form C

Name VINCENT ZELLA JR
NJ Attorney ID Number (if applicable) _____
Address 324 BUNN BLDG RD
MIDDLESEX NJ 08846
Telephone Number 908 465 5170

Superior Court of New Jersey
Law Division
MIDDLESEX County
Docket Number DJ-129344-17

DISCOVER BANK
Plaintiff(s)

VINCENT ZELLA JR
Defendant(s)

Civil Action
Order

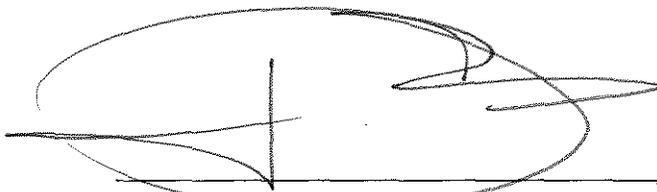
This matter having been brought before the Court on Motion of (check one) plaintiff defendant for an Order (describe relief requested)

VACATE DEFAULT JUDGMENT

DENIED

and the Court having considered the matter and for good cause appearing,

It is on this 29th day of June, 2018, ORDERED as follows:



HON. ANDREA G. CARTER, J.S.C., J.S.C.

Opposed
 Unopposed

*See attached statement of reasons.

Discover Bank v. Lella Jr.

STATEMENT OF REASONS

Docket No. DJ - 129344-17

This matter comes before the Court on the Defendant's application to vacate the entry of default judgment against Defendant, Vincent Lella Jr. in favor of Plaintiff, Discover Bank in the amount of \$3,647.60 plus costs. In support of this request, the Defendant asserts that he was not notified the debt. Defendant asserts his current address is 324 Bound Brook Road in Middlesex, New Jersey and the paperwork was mailed to 150 Oak Drive, in Middlesex, New Jersey. Defendant argues he was not aware of the debt or any responsibility he would have in relation to the debt. This motion was unopposed.

Defendant further asserts that his efforts to speak with plaintiff's counsel regarding the debt have been unsuccessful.

Pursuant to R. 4:50-1, relief from a final judgment may be granted only for the following reasons: (a) mistake, inadvertence, surprise, or excusable neglect; (b) newly discovered evidence which would probably alter the judgment or order and which by due diligence could not have been discovered in time to move for a new trial under R. 4:49; (c) fraud, misrepresentation, or other misconduct of an adverse party; (d) the judgment or order is void; (e) the judgment or order has been satisfied, released or

discharged, or a prior judgment or order upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment or order should have prospective application; or (f) any other reason justifying relief from the operation of the judgment or order. Except for motions for relief from default judgments which are liberally viewed, a motion for relief from judgment based on any one of the six specified grounds should be granted sparingly. Pressler, Current N.J. Court Rules, comment 1 to R. 4:50-1 (2014).

The Defendant attached the information subpoena dated March 9, 2018 addressed to the Defendant at 150 Oak Dr. in Middlesex N.J. There is a handwritten notation on the subpoena which reads as follows: "3/13 called 11:30 am they would not talk to me." Clearly, the Defendant received the information subpoena at the 150 Oak Dr. address and was able to make a call related to that correspondence within 4 days.

Defendant did not submit any proof of address, change of address, nor does Defendant argue why he was able to receive some correspondence but not the Complaint.

In prosecuting this matter the plaintiff was required to provide proof of service or face dismissal for lack of prosecution. Defendant has failed to demonstrate sufficient basis to vacate judgment as requested. As such, the request to vacate default judgment is DENIED.